

DOCKET NO. 144-SE-0211

STUDENT, B/N/F PARENT	§	BEFORE A SPECIAL EDUCATION
	§	
	§	
VS.	§	HEARING OFFICER
	§	
CORPUS CHRISTI INDEPENDENT SCHOOL DISTRICT	§	FOR THE STATE OF TEXAS

DECISION OF THE HEARING OFFICER

Statement of the Case

Student, by the student's parent and next friend Parent (hereinafter "Petitioner" or "the student"), brought a complaint pursuant to the Individuals with Disabilities Education Improvement Act ("IDEA"), 20 U.S.C. §1400, *et seq.*, complaining of the Corpus Christi Independent School District (hereinafter "Respondent" or "the district").

Petitioner was represented by Christopher Jonas, an attorney in Corpus Christi, Texas. Respondent was represented by Andrew Thompson, an attorney with the Corpus Christi Independent School District.

Petitioner's request for hearing was filed on February 28, 2011, and came on for hearing by agreement of the parties and order of the Hearing Officer on September 12, 2011. Counsel for the parties filed written closing arguments, and the parties agreed that this decision would be timely issued on or before October 24, 2011, in accordance with the regulatory time-line.

Petitioner alleged that the district failed to timely evaluate the student for eligibility for special education and related services and failed to identify the student as eligible for special education and related services. As relief, Petitioner seeks an appropriate evaluation for the student, placement in special education, compensatory educational services and special education and related services.

Based upon the evidence and argument of counsel, the Hearing Officer makes the following findings of fact and conclusions of law:

Findings of Fact

1. Petitioner is a student who resides within the district with the student's parents. [Petitioner's Exhibit 1, Respondent's Exhibits 1 & 6, and Transcript Page 30]
2. The student and a sibling were adopted by the students' parents ***. [Respondent's Exhibit 6 and Transcript Pages 30-35]
3. The student began attending school at the age of *** years within the district in ***. Prior to the student's enrollment in the district, the student's parent advised the district during the spring of 2010 that the student would begin attending school in the fall. The parent told the district's representatives that the student would need "testing" upon the student's arrival in Corpus Christi. [Transcript Pages 36 & 37]
4. The student's adoption was not completed until ***. [Transcript Page 47]
5. The student began attending school in the fall 2010 in *** in an English as a Second Language ("ESL") class. [Respondent's Exhibit 6 and Transcript Pages 109-110]
6. At the time the student began attending school, the student had had no educational instruction in *** and could not speak *** or English. [Respondent's Exhibit 6]
7. The student has exhibited problems with language articulation. [Petitioner's Exhibit 14 and Transcript Page 58]
8. A referral by the student's parent was made for special education evaluation in January 2011 and consented to evaluation in February 2011. [Petitioner's Exhibit 1 and Respondent's Exhibit 1]
9. A full individual evaluation ("FIE") was completed for the student in April 2011. [Respondent's Exhibit 6 and Transcript Page 44]
10. The FIE and other material concerning the student were considered at an admission, review and dismissal ("ARD") meeting in May 2011. [Petitioner's Exhibit 2-14 and Respondent's Exhibits 3-16]

11. The evaluation included assessment (with consideration for the student's language abilities) by standardized instruments including the Wechsler Non-Verbal Scale of Ability, the Woodcock-Johnson III Test of Achievement, and the Bilingual Verbal Ability Test. (Respondent's Exhibit 6 and Transcript Pages 92-100)

12. A speech assessment by the district noted that the student was comprehending and using English in school but did not have mastery of the English language. The assessment reported that the lack of English mastery was not a speech impairment though there were some problems with the student's articulation. The assessment noted that the student could repeat words spoken to the student and could be understood upon the student's articulation of the word. The speech assessment and the ARD committee determined that the student was not eligible for special education services based upon speech impairment. [Respondent's Exhibit 6 and Transcript Pages 73-83]

13. The ARD committee considered issues involving cultural factors, environmental and economic disadvantage, and limited English proficiency prior to the student's enrollment in the district. The committee determined that these issues effected the student's performance but were not an indication that the student qualified for special education. [Respondent's Exhibit 6 and Transcript Pages 30-45 & 48-50]

Discussion

The student was presented by the student's parent to the district with problems related to educational neglect prior to the student's enrollment and lack of opportunity to attend school. The district has provided the student with an opportunity to achieve educational benefit, and the district has responded to the challenges the student brings to them. The district demonstrated that its evaluation of the student was appropriate, despite the parents' concerns. The parents presented no evidence from individuals qualified to make determinations about educational disability and the district showed that the student was timely and appropriately evaluated, had the opportunity to make educational progress, and has been successful educationally in the student's placement.

Conclusions of Law

1. The Corpus Christi Independent School District is the local education agency responsible for the identification, evaluation and placement for students in special education.
2. The district properly evaluated the student for eligibility for special education and related services in accordance with 34 CFR 300.309 and 19 T.A.C. §89.1011 and §89.1040.
3. The student is not eligible for special education and related services under the provisions of IDEA, 20 U.S.C. §1400, et seq., and related statutes and regulations.

ORDER

Based on the foregoing findings of fact and conclusions of law, IT IS HEREBY ORDERED that all relief requested by Petitioner is DENIED.

SIGNED this 24th day of October, 2011.

/s/ Lucius D. Bunton
Lucius D. Bunton
Special Education Hearing Officer

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SYNOPSIS

ISSUE: Whether the student is eligible for special education and related services.

CFR CITATIONS: 34 CFR 300.309.

TEXAS CITATION: 19 T.A.C. §89.1011 and §89.1040.

HELD: For the district.